

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE:	)	Chapter 11
	)	
HARLOW N. HIGINBOTHAM,	)	Case No. 18 B 31185
	)	
Debtor.	)	Hon. LaShonda A. Hunt
	)	
	)	Hearing Date & Time:
	)	February 14, 2019 at 10:00 a.m.

**NOTICE OF MOTION**

TO: See Attached Service List

**PLEASE TAKE NOTICE THAT** on February 14, 2019, at 10:00 a.m., I shall appear before the Honorable LaShonda A. Hunt, or any other judge sitting in her stead, in Room 719, United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, or any other Judge sitting in her place or stead, and request a hearing on the Motion To Extend Time to Comply With Order Granting in Part Motion of Wipaporn Teekhungham and the Parties' Minor Children for Relief from Stay, a copy of which is herewith served upon you.

**CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, hereby state that pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System, I caused a copy of the foregoing NOTICE OF MOTION and MOTION to be served on all persons set forth on the attached Service List identified as Registrants through the Court's Electronic Notice for Registrants on the 11<sup>th</sup> day of February, 2019.

\_\_\_\_\_  
/s/ Gregory K. Stern  
Gregory K. Stern

Gregory K. Stern (Atty. ID #6183380)  
Monica C. O'Brien (Atty. ID #6216626)  
Dennis E. Quaid (Atty. ID #2267012)  
Rachel S. Sandler (Atty. ID #6310248)  
53 West Jackson Boulevard  
Suite 1442  
Chicago, Illinois 60604  
(312) 427-1558

**SERVICE LIST**

**Registrants Served Through The Court's Electronic Notice For Registrants**

Patrick Layng, United States Trustee  
219 South Dearborn Street  
Suite 873  
Chicago, Illinois 60604

Bradley S. Block  
318 West Adams Street  
17<sup>th</sup> Floor  
Chicago, Illinois 60606

Deborah Ebner  
William J. Factor  
Jeffrey K. Paulsen  
105 West Madison Street  
Suite 1500  
Chicago, Illinois 60602

Nathan Q. Rugg  
Barack Ferrazzano Kirschbaum & Nagelberg LLP  
200 West Madison Street  
Suite 3900  
Chicago, Illinois 60606

Shira R. Isenberg  
Bianca E. Ciarroni  
Freeborn & Peters LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606

Sean T. Scott  
Joshua R. Gross  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, Illinois 60606

N. Neville Reid  
Brian J. Wilson  
Fox Swibel Levin & Carroll LLP  
200 West Madison Street, Suite 3000  
Chicago, Illinois 60606

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**MOTION TO EXTEND TIME TO COMPLY WITH ORDER GRANTING IN PART  
MOTION OF WIPAPORN TEEKHUNGHAM AND THE PARTIES' MINOR  
CHILDREN FOR RELIEF FROM STAY**

**NOW COMES** Harlow N. Higinbotham, Debtor and Debtor in Possession, by and through his attorneys Gregory K. Stern, Monica C. O'Brien, Dennis E. Quaid and Rachel S. Sandler and in support of his Motion To Extend Time to Comply With Order Granting in Part Motion of Wipaporn Teekhungham and the Parties' Minor Children for Relief from Stay, states as follows:

1. On November 5, 2018, the Debtor filed a Voluntary Petition for relief under Chapter 11 (the "Petition") of the Bankruptcy Code (the "Code").

2. The Debtor, as Debtor In Possession, has continued in possession of his property, pursuant to §§ 1107 and 1108, except that Neal H. Levin, Circuit Court Receiver has been excused from complying with 11 U.S.C. § 543(a) or (b); and, no committee, examiner or trustee has been appointed in this case.

3. On November 9, 2018, a Motion of Wipaporn Teekhungham and the Parties' Minor Children<sup>1</sup> for Relief from Stay and Motion to Excuse the Receiver's Compliance §543 (the "Stay Motion"), which was fully briefed by the parties and continued from time to time for additional hearings.

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<sup>1</sup> Shall collectively be referred to as the "Support Creditors."

4. On January 11, 2019, this Court entered an Order Granting in Part Motion of Wipaporn Teekhungham and the Parties' Minor Children for Relief from Stay (Docket No. 55) (the "Adequate Protection Order") which required the following of the Debtor within thirty (30) days:

(a) the Debtor to provide adequate protection in the total amount of \$2,000,000.00 to be deposited into the receiver's IOLTA account; and

(b) the Debtor to secure life insurance policies in the amount of \$1,000,000.00 for each of the three minor children (for a total of \$3,000,000 in coverage, with proof of payment of the full annual premium for said policies.

5. With regards to the securing of the insurance policies for the minor children, the Debtor was required to undergo additional medical testing prior to getting approved for life insurance. As of February 9, 2019, the Debtor received confirmation that he was approved for term life insurance in the amount of \$1,000,000.00 for each of the minor children at the annual cost of \$18,775.00 per policy or a total of \$56,325.00 for the three policies. These policies are ready to be issued and will become effective upon the Debtor's payment of the annual premiums.

7. With regards to the payment of the \$2,000,000.00 to be deposited in the receiver/custodian's IOLTA account, the receiver/custodian is currently holding \$1,570,969.25 and he is working to obtain the additional amount of \$56,911.89 from the Debtor's Fidelity Investment account (xxx6689), the timing of which is solely within the control of the receiver/custodian and Fidelity Investment. Accordingly, the receiver/custodian will be holding \$1,627,881.14, leaving \$372,118.86 needed to fund the balance of the \$2,000,000.00 adequate protection required by the Adequate Protection Order.

8. As this Court is aware, the Debtor has been working diligently to meet the requirements and time period set forth in the Adequate Protection Order. In order to meet the requirements set forth in the Adequate Protection Order, the Debtor sought authority from this

Court to liquidate certain stock accounts. Specifically, the Debtor filed a Motion For Authority To Liquidate Non-Qualified Deferred Compensation Plans Pursuant To §363 Of The Bankruptcy Code And Shorten and Limit Notice Thereof and Direct Turnover of Proceeds which sought to liquidate the following accounts:

- (a) the Debtor's Supplemental Savings & Investment Plan having a market value of \$713,008.52 as of October 31, 2018, identified as account no. xxxx0001, and maintained at Transamerica Corporation (the "Supplemental Savings Plan"); and,
- (b) the Debtor's deferred compensation plan having a market value of \$321,668.24 as of September 30, 2018, identified as account no. xxxx6689, and maintained at National Financial Services, LLC (the "Deferred Compensation Plan").

6. While the liquidation of the Supplemental Savings Plan and the Deferred Compensation Plan would have provided net proceeds sufficient to fund the payments required under the Adequate Protection Order, the liquidation of these accounts was not possible due to internal plan restrictions and restrictions within the Internal Revenue Service Code section 409A.

7. Notwithstanding, the Debtor has received confirmation that he will be receiving the following payments from his employer between February 28 and March 5, 2019:

- (a) \$190,000.00 from a vested deferred compensation plan account; and,
- (b) in excess of \$550,000.00 from a yearly bonus.

8. After tax withholding related to the foregoing payments, the Debtor will have funds sufficient to deposit the \$372,118.86 into the receiver/custodian's IOLTA account and pay the \$56,325.00 to fund the annual premiums due for the life insurance policies.

9. The Debtor is requesting that the deadline for his compliance with the terms of the Adequate Protection Order be extended until March 11, 2019.

**WHEREFORE**, Harlow N. Higinbotham, Debtor and Debtor in Possession herein,

requests that the Court enter an order extending the deadline for compliance with the Adequate Protection Order until March 11, 2019; and, for such other further relief as is just and proper.

By: /s/ Gregory K. Stern  
Debtor's Attorney

Gregory K. Stern (Atty. ID #6183380)  
Monica C. O'Brien (Atty. ID #6216626)  
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